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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,896	10/18/2001	Richard J. Schneider	4164-214	4530
20575	7590	05/03/2004		
MARGER JOHNSON & MCCOLLOM PC 1030 SW MORRISON STREET PORTLAND, OR 97205				
			EXAMINER	
			RADA, ALEX P	
			ART UNIT	PAPER NUMBER
			3714	9

DATE MAILED: 05/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,896	SCHNEIDER, RICHARD J.	
	Examiner	Art Unit	
	Alex P. Rada	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 November 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-10 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed November 3, 2003 in which the applicant has amended claim 7 and claims 1-10 are pending in this office action.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,364,768 in view of Olsen '273. Acres discloses allowing play to occur on a plurality of gaming machines, sending a bonus token signal to a first selected one of the plurality of gaming machines, initiating a bonus period at only that first selected one of the plurality of gaming machines responsive to the bonus token signal, passing the bonus token signal to a second selected one of the plurality of gaming machines, and ending the bonus period at the first selected one of the plurality of gaming machines and concurrently initiating a bonus period at the second selected one of the plurality of gaming machines. Acres does not expressly disclose setting an upper threshold, selecting a first subset of the plurality of gaming machines when the accumulated bonus pool crosses the

upper threshold, and initiating a bonus period at only the at least one of the first selected subset of gaming machine responsive to the bonus token signal.

Olsen teaches setting an upper threshold value for a bonus game within a given time period. By setting upper threshold values for a bonus game, one of ordinary skill in the art would attract more players and retain more players at the game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Acres to include setting an upper threshold, selecting a first subset of the plurality of gaming machines when the accumulated bonus pool crosses the upper threshold, and initiating a bonus period at only the at least one of the first selected subset of gaming machine responsive to the bonus token signal as taught by Olsen to provide greater unpredictability and to add more excitement in playing progressive gaming system.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Acres '961.

5. Acres discloses the following:

A plurality of gaming machines (figure1), setting an upper threshold (figure 34), accumulating a bonus pool responsive to play on the gaming machines (figure 34), selecting a first subset of the plurality of gaming machines when the accumulated bonus

pool crosses the upper threshold (figure 34), sending a bonus token signal (figure 34 and column 36, lines 36-60) to at least one of the first selected subset of the plurality of gaming machines, and initiating a bonus period at only the at least one of the first selected subset of gaming machines responsive to the bonus token signal (column 36, line 36 – column 37, line 27) as recited in claim 1.

Paying out bonus awards from the bonus pool during the bonus period as recited in claim 2.

Decrementing the bonus awards paid during the bonus period from the bonus pool to yield an adjusted bonus pool amount, setting a lower threshold, removing the bonus token signal from the first selected subset of gaming machines when the adjusted bonus pool amount crosses the lower threshold, and ending the bonus period contemporaneous with the step of removing the bonus token signal (figure 34 and column 36, line 36 – column 37, line 27) as recited in claim 3.

Accumulating a temporary bonus pool during the bonus period responsive to play of the gaming machine during the bonus period, and transferring the temporary bonus pool into the bonus pool at the end of the bonus period (column 36, line 36 – column 37, line 52) as recited in claim 4.

The temporary bonus pool during the bonus period responsive to play of the gaming machines during the bonus period excludes those machines in the first subset of gaming machines (column 36, line 36 – column 37, line 52) as recited in claim 5.

The first selected subset of machines is a number greater than one (figure 34) as recited in claim 6.

Removing the bonus token signal from the first selected subset of gaming machines (figure 34), ending the bonus period contemporaneous with removing the bonus token signal from the first selected subset of gaming machines, selecting a second subset of gaming machines, receiving the bonus token signal at the second subset gaming machines (figure 34 and column 36, line 36 – column 37, line 27), and initiating a bonus period at only at least one of the second selected subset of gaming machines responsive to the bonus token signal (figure 34 and column 37, lines 37-52) as recited in claim 7.

Reserving the bonus token at a bonus server coupled to the network until the first threshold is crossed as recited in claim 8.

A plurality of gaming machines (figure 1), each of the machines having a machine control interface adapted to operate the gaming machine in either a normal operation mode or a bonus operation mode, a bonus server linked to the plurality of gaming machines over a network, the bonus server including selection means for identifying at least a selected one of the plurality of gaming machines and signal generation means for generating a bonus token signal (figure 34), and signal transmission means (figures 32-34) for sending the bonus token signal to the machine control interface of at least the selected one of the plurality of gaming machines responsive to the selection means, wherein the selected one of the plurality of gaming machines switches from the normal operation mode to the bonus operation mode responsive to the bonus token signal being received at the machine control interface (figure 34 and column 36, line 36 – column 37, line 27) as recited in claim 9.

A player server linked to the plurality of gaming machines, the player server (32) including a database of player accounts player account identification means (figures 20

and 21) located at each of the plurality of gaming machines for identifying a player, associated with a respective player account stored within the player server, at the selected one of the plurality of gaming machines, means for sending a flag signal to the player server responsive to the bonus token, and means for flagging the respective player account responsive to the flag signal (column 26, line 36 – column 29, line22) as recited in claim 10

Response to Arguments

6. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Acres '569, '434, '284, and Schneider '149 all discloses different types of bonus gaming machines

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JESSICA HARRISON
PRIMARY EXAMINER